

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7032

Joint Petition of Vermont Electric Power Company, Inc.,)
Green Mountain Power Corporation and the Town of)
Stowe Electric Department for a certificate of public)
good, pursuant to 30 V.S.A. Section 248, authorizing the)
so-called Lamoille County 115 kV Project, consisting of)
the construction of a transmission line from Stowe to)
Duxbury, Vermont, and accompanying facilities)

Order entered: 5/16/2007

ORDER RE APPROVAL OF GREGG HILL ROAD AREA DESIGN PLANS

BACKGROUND

On March 9, 2007, the Public Service Board ("Board") issued an order approving the design plans for the Lamoille County Project with the exception of one area along Gregg Hill Road. The Agency of Natural Resources ("ANR") expressed concerns with the proposed line in this area and indicated that issuing the necessary wetlands permits for this area might be problematic. After reviewing the various reroute proposals for this area, the Board determined that the so-called "second reroute" appeared to be the best solution for the area when considering environmental and aesthetic impacts. The Board directed Vermont Transco, LLC and Vermont Electric Power Company, Inc. (collectively "VELCO") to file design plans for this second reroute unless, through discussions with ANR and the Gregg Hill Residents, it could file a proposed reroute that was acceptable to all parties.

On March 29, 2007, ANR filed a letter indicating that VELCO, the Gregg Hill Residents, and ANR had developed a new reroute that would avoid the forested wetland and deeryard. Attached to the March 29 letter was a letter from the Division of Historic Preservation, stating that the proposed reroute "will not have any effect on any historic or archeological resources."

On April 2, 2007, VELCO filed final design plans for the new reroute in the Gregg Hill area.

On April 16, 2007, the Gregg Hill Residents filed a letter stating that they accept the March 30 modifications that run through the Lillis and Murray properties, although it is not their first preference. The Gregg Hill Residents argue that, for aesthetic and environmental reasons, the line should not be located within the open wetlands on the Bieler property. The Gregg Hill Residents provided four recommendations to the Board regarding the April 2 reroute: (1) the Board should address the fact that ANR raised an issue with respect to the impact on migratory birds of constructing the line in the existing corridor across the Bieler wetland but never weighed that impact against the possible adverse impacts on wildlife of the Gregg Hill Reroute; (2) the Board should recognize that "there can be virtually no doubt that the existing corridor through the Bieler wetland will have an unduly adverse aesthetic impact";¹ (3) the Board should require VELCO to submit detailed aesthetic mitigation plans for the line across the Bieler wetland before issuing a final order; and (4) the Board should ensure that sufficient time is taken to understand the impact of the project on the Gregg Hill area.

On April 13, 2007, the Town and Village of Waterbury Planning Commission ("Waterbury") filed a letter supporting the Gregg Hill Residents' position and recommends that the Board provide time for additional analysis and negotiations.

On April 25, 2007, the Board issued a memorandum directing VELCO to file an aesthetic mitigation plan for the Bieler property and providing parties one week to file comments on the plan.

On May 4, 2007, VELCO filed a letter stating that the only available aesthetic mitigation options, absent moving the line, are selective clearing and lowering pole heights to an absolute minimum. VELCO states that it has reexamined pole design standards and clearance requirements to achieve lower pole heights. The design of the line, except for the height of four poles in the open Bieler wetlands, is not changed by the May 4 filing. Further, VELCO states that other types of mitigation, such as tree plantings, would interfere with the view across the open space of the Bieler property.

On May 11, 2007, the Department of Public Service ("Department") filed a letter stating that it is not clear from VELCO's May 4 letter whether the poles will be higher than the tops of

1. Letter dated April 10, 2007, (filed with the Board on April 16, 2007) from Bill Orr to Susan M. Hudson.

the trees in the background. The Department specifically states that it is not requesting further filings from VELCO but recommends that we approve the proposed route with a condition that pole heights be reduced, if possible, to a level that would keep the structures below the top of the tree-line. The Department suggests that additional reductions in pole height might be achieved through the use of reduced spans.

On May 14, 2007, the Gregg Hill Residents submitted, via e-mail, a letter expressing concern with VELCO's May 4 letter. The Gregg Hill Residents contend that the route through the Bieler property is unacceptable from an aesthetic perspective. The Gregg Hill Residents contend that pole heights over 70 feet in the area of the Bieler property would result in an undue adverse impact because the height of the poles would be above the tree-line and intrude into the mountain view. The Gregg Hill Residents recommend that an alternative aesthetic mitigation measure would be to route the line away from the open Bieler wetlands.

After reviewing the comments received, we approve the April 2 proposal, for the reasons discussed below.

ANR has independent authority to determine what impacts are acceptable to wetlands. ANR has reviewed the various proposals and has found that the route through the open wetlands on the Bieler property is preferable to the impacts to forested wetlands that would occur from construction of a new corridor to build the Gregg Hill Residents' proposed reroute. Independent of ANR, we find that it is preferable, from an environmental perspective, to have the line run through the existing corridor rather than impact a new wetlands area. In our March 16 Order we stated, "There should be a compelling reason for imposing a new land use, such as a transmission line, on land that does not currently host a transmission line."² This statement is particularly true when a new corridor is proposed on sensitive natural communities such as forested wetlands.

The Gregg Hill Residents contend that the route through the Bieler wetlands would have an unduly adverse aesthetic impact. However, neither of the two aesthetics experts upon whom the Gregg Hill Residents rely, in their April 16 comments, make such a statement. Instead, both the Department's and VELCO's aesthetic experts state that, while the Gregg Hill Residents' proposal is preferable to the route through the open wetlands, the route through the wetlands

2. Docket 7032, Order of 3/16/06 at 80.

would not have an undue adverse aesthetic impact if pole heights are kept to a minimum. The only evidence cited to by the Gregg Hill Residents that specifically states that pole heights over 60 feet in this area would have an undue adverse impact addresses historic structures. However, the Division of Historic Preservation has stated that the April 2 configuration would not impact historic structures. Additionally, we found, in our March 16, 2006, Order, that the original proposed project, which included the line through the Bieler property, "could be adequately mitigated to pass the Quechee test."³

The Gregg Hill Residents recommended that we require aesthetic mitigation plans for the Bieler property prior to approving the April 2 plans. We required VELCO to file such plans and have received comments from the Gregg Hill Residents and the Department regarding VELCO's May 4 filing.

The Gregg Hill Residents and Waterbury contend that we should provide additional time for negotiation and analysis. However, on March 16, 2006, over one year ago, we encouraged the Gregg Hill Residents to propose an alternative route for this area. ANR first filed comments on the environmental impacts of the Gregg Hill Residents' proposed reroute on October 6, 2006, over six months ago. We do not believe that additional time will result in an agreement and we are also concerned with any further delay in the construction of this necessary reliability project.

The Board must balance several factors, including the aesthetic and environmental impacts of the route. After weighing the alternatives, we find that the proposed reroute filed by VELCO on April 2, 2007, is the best option that, after a year of effort, the parties have developed. However, in order to minimize the aesthetic impacts of the April 2 route, we require VELCO to work with the Department, the Gregg Hill Residents, and ANR to examine the feasibility of reducing span lengths, which would reduce pole heights but increase the number of poles, in the open Bieler wetlands.

As stated in our March 9 Order, the Board will require a site visit, after construction of the project is complete and all aesthetic mitigation has been installed, to determine if the mitigation measures are sufficient. We will retain jurisdiction to require additional mitigation measures in the event that such measures should be needed.

3. Docket 7032, Order of 3/16/06 at 79.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The design plans filed by VELCO on April 2 are approved.
2. VELCO shall endeavor to work with the Department of Public Service, the Gregg Hill Residents, and the Agency of Natural Resources to attempt to lower pole heights by reducing span lengths in the open Bieler wetlands.
3. VELCO shall inform the Board within one month of the completion of construction and the installation of aesthetic mitigation measures. The Board will conduct a site visit to determine if the aesthetic mitigation is sufficient. The Board retains jurisdiction to require additional aesthetic mitigation measures, if necessary.

Dated at Montpelier, Vermont, this 16th day of May, 2007.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
)	
)	BOARD
)	
<u>s/John D. Burke</u>)	OF VERMONT

OFFICE OF THE CLERK

FILED: May 16, 2007

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.